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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,304	08/29/2001	Albert S. Deutsch	PISCES 00.01 DIV	8148
7590 02/10/2004			EXAMINER	
Norman P. Soloway Hayes, Soloway, Hennessey, Grossman & Hages, P.C. 130 W. Cushing Street Tucson, AZ 85701			FUNK, STEPHEN R	
			ART UNIT	PAPER NUMBER
			2854	

DATE MAILED: 02/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.		Applicant(s)	
	09/941,304		DEUTSCH ET AL.	
	Examiner		Art Unit	
	Stephen R Funk		2854	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 26-31 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26 - 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma et al. ('653) in view of Bratt ('528) and Platzer et al. (US 5,900,345).

Ma et al. teach a printing plate having a substrate with a coating which has been imparted with insolubility with an alkaline material. See column 6 lines 16 - 26, column 7 lines 15 - 43, and claims 9, 10, and 21 of Ma et al., for example. Ma et al. refers to Bratt for suitable substrates in column 6 lines 24 - 26.

In column 5 lines 23 - 44 Bratt disclose the conventionality of an anodized aluminum substrate. Bratt does not specifically disclose that the anodized aluminum is silicated.

Platzer et al. teach the desirability of silicating an anodized aluminum substrate. See the paragraph bridging columns 4 and 5 of Platzer et al., in particular, column 5 lines 10 - 12.

It would have been obvious to one of ordinary skill in the art to provide the plate of Ma et al. with an aluminum substrate in view of Bratt so as to provide an economical dimensionally stable substrate and to silicate the anodized aluminum in view of Platzer et al. to render the surface more hydrophilic.

With respect to claim 27 see column 5 lines 31 - 34 of Bratt. Roughening is the same as graining.

With respect to claim 28 it would have been obvious to one of ordinary skill in the art through routine experimentation to provide the coating with a thickness from 1 to 3 microns.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 29 - 31 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 - 7 of U.S. Patent No. 6,523,471 in view of Ma et al. and Bratt. Patented claims 1 - 7 recite a printing plate having a diazo coating (claim 1 lines 6 - 7, claim 7 lines 6 - 7) wherein an image is insoluble in a developer due to a higher concentration of alkaline material (claim 1 lines 6 - 8, claim 7 lines 2 and 7 - 8). The patented claims do not recite an anodized aluminum plate. Ma et al. teaches a similar plate and refers to Bratt for suitable substrates, who teaches the conventionality of an anodized aluminum substrate. Note the comments above with respect to Ma et al. and Bratt. It would have been obvious to one of ordinary skill in the art to provide the plate in the patented claims with an anodized aluminum substrate in view of Ma et al. and Bratt to provide a well known, dimensionally stable, hydrophilic substrate. With respect to claim 31 the recited thickness would have been obvious to

one of ordinary skill in the art through routine experimentation lacking any evidence of criticality.

Applicant's arguments with respect to claim 26 have been considered but are moot in view of the new ground(s) of rejection. It is noted that applicant did not file a terminal disclaimer with respect to U.S. Patent No. 6,523,471.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen R. Funk whose telephone number is (571) 272-2164. The examiner can normally be reached M - F, except Wednesdays.

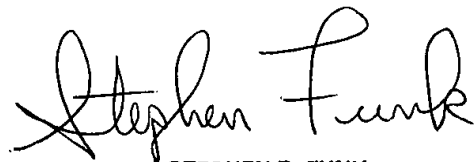
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Hirshfeld, can be reached at (571) 272-2168.

Art Unit: 2854

The fax phone number for ALL official papers is (703) 872-9306. Upon consulting with the examiner *unofficial* papers only may be faxed directly to the examiner at (571) 273-2164.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

SRF
February 7, 2004



STEPHEN R. FUNK
PRIMARY EXAMINER